

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NITROUS FUNDING, LLC,		:	
		:	20 Civ. 2216 (PAE)
	Plaintiff,	:	
		:	<u>ORDER</u>
	-v-	:	
		:	
CARDINAL EQUITY, LLC,		:	
		:	
	Defendant.	:	
		:	
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PAUL A. ENGELMAYER, District Judge:

On November 17, 2020, plaintiff Nitrous Funding, LLC (“Nitrous”), with consent of defendant Cardinal Equity, LLC (“Cardinal”), filed a motion to extend the discovery schedule by 90 days, citing difficulties in obtaining discovery responses from Cardinal. Dkt. 27. The same day, the Court granted the motion and approved the parties’ amended case management plan, which contemplated a date of March 15, 2021 for the close of fact discovery. Dkts. 28–29.

On November 18, 2020, Nitrous filed a letter motion regarding a discovery dispute in this case. Dkt. 30 (“Nitrous Ltr.”). Nitrous claims that Cardinal, despite having received Nitrous’ initial interrogatories and requests for production on August 31, 2020, has yet to serve any responses or objections or produce any documents. Nitrous Ltr. at 1–2. Nitrous seeks an order compelling Cardinal to respond to all discovery requests without objection, save applicable privilege objections, and an order awarding Nitrous its fees associated with preparing the letter motion. *Id.* at 3. Cardinal did not respond the motion within three days as required by the Court’s Individual Rule 2(C).

Cardinal has not explained its delay in serving responses to Nitrous' initial interrogatories. Absent stipulation, Federal Rule Civil Procedure 33 gives parties 30 days after service to respond to interrogatories. Nitrous represents that it has granted Cardinal several extensions of time to respond to the initial interrogatories and that Cardinal has provided no explanation for the continued delay. Cardinal is ordered to serve responses and objections to Nitrous' initial interrogatories by December 11, 2020.

Cardinal has similarly not explained its delay in serving responses and objections to Nitrous' initial requests for production, which were also served on August 31, 2020. Nitrous Ltr. at 1. Nitrous represents that it has also granted several extensions of time for Cardinal to serve responses and objections to the initial requests for production and that Cardinal has similarly not explained the delay. Absent stipulation, Federal Rule of Civil Procedure 34 requires parties to respond to requests for production within 30 days of service. Cardinal is ordered to serve responses and objections to Nitrous' initial requests for production by December 11, 2020.

Finally, Nitrous explains that Cardinal has not produced a single document since receiving Nitrous' initial requests for production on August 31, 2020. Nitrous claims that Cardinal attributes the delay to its having recently retained a vendor to assist in document production. Nitrous Ltr. at 2. However, this does not explain Cardinal's delay in beginning a rolling document production. Cardinal is ordered to begin rolling production by December 11, 2020. Following that date, the parties are instructed to file monthly a joint letter explaining the progress of document production.

The Court declines to impose sanctions or award Nitrous its costs in preparing the letter motion.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: November 25, 2020
New York, New York